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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,340	06/20/2005	Jillianne Pierce	LANI 3470	1624

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SMITH-HILL AND BEDELL, P.C.  
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BEAVERTON, OR 97006

EXAMINER

HECKENBERG JR, DONALD H

ART UNIT PAPER NUMBER

1722

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/540,340

Applicant(s)

PIERCE, JILLIANNE

Examiner

Donald Heckenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                   |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

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1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, Applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. The groups are:

Group I, claims 1-17, drawn to a wax cutter device.

Group II, claims 18-22, drawn to a candle forming device.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The claims of Group I are related to the wax cutting features of a device, whereas the claims of Group II relate to the wax molding features of a device. The claims of the two groups thus are directed to completely different inventions with no corresponding features.

3. During a telephone conversation with between Examiner Stephen Ralis and John Smith-Hall (Applicant's Representative)

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on 30 May 2006 a provisional election was made with traverse to prosecute the invention of Group II, claims 18-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 22 refers to "the wax cutting device" in line 1. There is no antecedent basis for this limitation as no wax cutting structure has been defined in this claim, or claim 18 from which claim 22 depends. As such, the claim is indefinite.

Based on the disclosure of the application, it appears as though claim 22 is intending to refer to the previously defined candle forming device instead of a wax cutting device in line 1.

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The claim will be interpreted as such in the rest of this Office Action. However, appropriate clarification and correction are required.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 18, 19, 21 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Randmae et al. (U.S. Pat. No. 6,412,670).

Randmae discloses a candle making apparatus. The apparatus includes a kiln formed by upper and lower housing 36 and 40, which together define an inner chamber (see Fig. 2). A mold 28 having a bottom and an open top is provided for placement into and out of the chamber (see Figs. 2 and 8). A heating assembly 10 is configured to thermally regulation within the housing. As such, the heating assembly acts to thereby thermally regulate

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the inner mold placed within the chambers as well. Also provided is a wick placement device 46 configured to hold a wick 48 in place between the open top and bottom of the mold (Fig. 2). The device also includes a lid structure 42.

Randmae further discloses the candle making apparatus to comprise a base 26 which is positioned near a bottom portion of the mold (Fig. 2). As such, the base would inherently act as a heat sink. In other words, the base would act to absorb heat from the adjacent chamber, and thus, be a heat sink.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Randmae.

Randmae discloses the candle making apparatus as described above. Randmae further discloses the mold to include a handle 20. While claim 20 of the instant application defines a plurality of handles for the mold, the provision of a plurality of handles on the mold of Randmae would require merely duplicated the handle structure already disclosed by Randmae. Generally, the duplication of a known part for a multiplied effect has no patentable significance unless it can be shown that there is a new and unexpected result. See In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960); St. Regis Paper Co. v. Bemis Co., 549 F.2d 833, 193 USPQ 8 (7th Cir. 1977). In this case, the provision of additional handles on the mold of Randmae would have been obvious to one of ordinary skill in the art at the time of Applicant's invention because this in turn would allow for the multiplied effect of the mold be secured at multiple points, i.e. by two hands on different handles.

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11. The following references cited but not relied upon are deemed pertinent to the instant application:

Berman (U.S. Pat. No. 3,891,179) discloses a hobby casting mold.

Machado (U.S. Pat. No. 6,098,953) discloses a candle recycling assembly.

Elmore (U.S. Pat. No. 6,457,962) discloses a water candle box.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Heckenberg whose telephone number is (571) 272-1131. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached at (571) 272-1316. The official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications



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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<<http://pair-direct.uspto.gov>>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

 6-26-6  
Donald Heckenberg  
Primary Examiner  
A.U. 1722